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OFFICE OF PETITIONS

ON PETITION

In re Application of
Brian N. Ripley
Application No. 10/091,698
Filed: March 5, 2002
Attorney Docket No. 100202181-1

This is a decision on the petition under 37 CFR 1.137(a), filed October 23, 2007, to revive the above-identified application. The delay in responding is sincerely regretted.

The petition is **granted**.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of James Hao appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The above application was held abandoned for failure to timely respond to the non-final Office action mailed March 7, 2007, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on October 9, 2007.

Petitioner asserts that a reply was timely submitted to the United States Patent and Trademark Office (USPTO). In support, petitioner provides a copy of a postcard receipt, which shows that an amendment was received in the USPTO on June 13, 2007.

A review of the record fails to show receipt of an amendment filed on June 13, 2007. However, petitioner supplied the Office with a facsimile copy of the amendment on October 4, 2007¹.

Additionally, it is not apparent whether the statement of unavoidable delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unavoidable delay. However, in the event that petitioner has no knowledge that the delay was unavoidable, petitioner must make such an inquiry to ascertain that, in fact, the delay was unavoidable. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

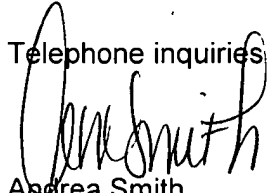
¹It is noted that the paper styled Transmittal Letter for Response/Amendment filed on October 4, 2007, mentions the filing of an amendment and contains a Certificate of Mailing dated for June 7, 2007.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of \$510; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable. Therefore, the petition is **GRANTED**.

If Mr. Hao desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

This application is being referred to Technology Center Art Unit 2185 for review of the amendment received on October 4, 2007.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.



Andrea Smith
Petitions Examiner
Office of Petitions



David Bueci
Petitions Examiner

cc: James Hao
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